

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOHN C. KITCHIN, JR., et al.,

Plaintiffs,

v.

Case No. 4:18-cv-00672-CDP

BRIDGETON LANDFILL, LLC, et al.,

Defendants.

**DEFENDANT COTTER CORPORATION (N.S.L.)’S
MOTION TO DISMISS BRIDGETON LANDFILL, LLC’S CROSSCLAIM**

Defendant Cotter Corporation (N.S.L.) (“Cotter”) requests that the Court dismiss Bridgeton Landfill, LLC’s (“Bridgeton”) Crossclaim (ECF No. 162) under Federal Rule of Civil Procedure 12(b)(6) and the Court’s Order of March 28, 2023 (ECF No. 172). In support of this motion, Cotter states that:

1. Cotter has moved to dismiss Plaintiffs’ Second Amended and Supplemental Class Action Complaint under the Price-Anderson Act, 42 U.S.C. §§ 2210, et seq., among other grounds, and has filed a memorandum in support of its motion to dismiss, which is incorporated by reference. (ECF Nos. 164, 165.) As the memorandum explains, the Price-Anderson Act preempts the entire suit and all claims. (ECF No. 165 at 6–14.)

2. Because Bridgeton alleges that the Price-Anderson Act applies to this suit and its claim (ECF No. 162 at 3, ¶ 11; *id.* at 8, ¶ 52; *id.* at 9, ¶ 61; *id.* at 29, ¶ 22; *see also id.* at 19, ¶ 2 (alleging “source material”); *id.* at 21, ¶ 14 (same)), and because Plaintiffs’ Second Amended and Supplemental Class Action Complaint fails under the Price-Anderson Act, Bridgeton’s Crossclaim also necessarily fails. *Irwin v. Hoover Treated Wood Prod., Inc.*, 906 F. Supp. 530, 533–34 (E.D. Mo. 1995) (“Unless the plaintiff has (or had) a cause of action against the person

from whom contribution is sought, that person is not liable for contribution to other defendants.’’
(quoting *Sweet v. Herman Bros.*, 688 S.W.2d 31, 32–33 (Mo. App. 1985))).

3. Cotter conferred with Bridgeton, who could not consent to the motion at this time.

For these reasons, Defendant Cotter Corporation (N.S.L.) requests that the Court dismiss Bridgeton Landfill, LLC’s Crossclaim (ECF No. 162).

Dated: April 6, 2023

Respectfully submitted,

/s/ Brian O. Watson

Brian O. Watson, #68678MO

Lauren E. Jaffe, #6316795IL

RILEY SAFER HOLMES & CANCELIA LLP

70 W. Madison St., Ste. 2900

Chicago, Illinois 60602

(312) 471-8700 (main)

(312) 471-8701 (fax)

bwatson@rshc-law.com

ljaffe@rshc-law.com

docketdept@rshc-law.com

Jennifer Steeve, #308082CA

RILEY SAFER HOLMES & CANCELIA LLP

100 Spectrum Center Drive, Suite 440

Irvine, CA 92618

Phone: (949) 359-5515

Fax: (312) 471-8701

jsteeve@rshc-law.com

docketdept@rshc-law.com

*Attorneys for Defendant Cotter Corporation
(N.S.L.)*

CERTIFICATE OF SERVICE

I certify that on April 6, 2023, these papers were filed through the CM/ECF system,
which will automatically serve an electronic copy upon all counsel of record.

Respectfully submitted,

/s/ Brian O. Watson

Brian O. Watson, #68678MO

4877-5569-4684, v. 1